

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1840-01
Bill No.: SB 417
Subject: Attorney General; State, Workers' Compensation
Type: Original
Date: March 28, 2011

Bill Summary: This proposal modifies the law relating to the Second Injury Fund.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------------|------------------|------------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| General Revenue | (Unknown) | (Unknown) | (Unknown) |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | (Unknown) | (Unknown) | (Unknown) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|---------------------------------------|---------------------------------------|---------------------------------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| Conservation Fund | (Unknown) | (Unknown) | (Unknown) |
| State Road Fund | (Unknown) | (Unknown) | (Unknown) |
| Workers Compensation Fund | (Unknown greater than \$6,000) | (Unknown greater than \$6,000) | (Unknown greater than \$6,000) |
| Total Estimated Net Effect on <u>Other</u> State Funds | (Unknown greater than \$6,000) | (Unknown greater than \$6,000) | (Unknown greater than \$6,000) |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|--|----------|----------|----------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|-------------------------------------|------------|------------|------------|
| FUND AFFECTED | FY 2012 | FY 2013 | FY 2014 |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Labor and Industrial Relations** assume there is an unknown fiscal impact to the Second Injury Fund (SIF). The bill restricts the permanent disability compensation benefits to cases where compensation has been awarded or which have been filed prior to July 1, 2011. At this time, it is not possible to determine the amount of award payments the fund will be liable for based on the changes in the bill. According to the Pinnacle Actuarial Resources, Inc. report, the outstanding liability to the SIF is \$921 million. It will take longer than three years to finish litigation for the approximate 27,000 pending cases.

Section 287.220.2 states that beginning July 1, 2011, the AGO will quarterly transmit the projected cost of all legal expenses to the Workers' Comp Division Director. The Director will then withhold sufficient funds to meet the quarterly expenses not to exceed one-fourth of the annual appropriation by the General Assembly. This will result in an unknown fiscal impact to the SIF.

Section 287.220.6 requires an annual actuarial review of the SIF, rather than every three years. The first actuarial study is to be completed prior to July 1, 2012. The last actuarial study cost approximately \$6,000.

Officials at the **Office of Administration** assume that it is likely that some of the compensation or disability that was available from the Second Injury Fund would be pursued against the employer/insurer from the primary injury. Therefore there is the potential for increased cost to the state's self-insured workers' compensation program that cannot be determined at this time.

The Second Injury Fund surcharges will likely decrease which would result in some savings to the state's self insured workers' compensation program (CARO).

In response to similar legislation filed, officials at the **Missouri Department of Transportation** assume employers' workers' compensation claim costs will increase as they pick up the entire cost of permanent disabilities regardless of whether their workplace injury, on its own, created the permanent disability. The increased cost to the State Road Fund is unknown.

Officials at the **Office of the Attorney General (AGO)** assume that the costs regarding the implementation of this proposal could be absorbed with existing resources, but the AGO may request a future appropriation for FTE if needed for related litigation.

Officials at the **Department of Insurance, Financial Institutions and Professional**

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ASSUMPTION (continued)

Registration and the **Office of the State Treasurer** assume that there is no fiscal impact from this proposal.

Oversight assumes that the liabilities of the Second Injury Fund will continue until outside the fiscal note period. Oversight assumes that the savings to the General Revenue Fund, Conservation Fund and State Road Fund from not paying the second injury fund surcharge will not occur until outside the fiscal note period.

| <u>FISCAL IMPACT - State Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
|--|-------------------------|-------------------------|-------------------------|
| GENERAL REVENUE | | | |
| <u>Cost-</u> increased workers compensation claims | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| CONSERVATION FUND | | | |
| <u>Cost-</u> increased workers compensation claims | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON CONSERVATION FUND | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| STATE ROAD FUND | | | |
| <u>Cost-</u> increased workers compensation claims | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIMATED NET EFFECT ON STATE ROAD FUND | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |

WORKERS COMPENSATION FUND

| | | | |
|---|-----------|-----------|-----------|
| <u>Cost</u> - increased number of workers compensation claims | (Unknown) | (Unknown) | (Unknown) |
|---|-----------|-----------|-----------|

| | | | |
|---|---------------------------------------|---------------------------------------|---------------------------------------|
| <u>Cost</u> - actuarial study of SIF Fund | <u>(Unknown greater than \$6,000)</u> | <u>(Unknown greater than \$6,000)</u> | <u>(Unknown greater than \$6,000)</u> |
|---|---------------------------------------|---------------------------------------|---------------------------------------|

| | | | |
|--|--|--|--|
| ESTIMATED NET EFFECT ON WORKERS COMPENSATION FUND | <u>(Unknown greater than \$6,000)</u> | <u>(Unknown greater than \$6,000)</u> | <u>(Unknown greater than \$6,000)</u> |
|--|--|--|--|

| | | | |
|---|---------------------|------------|------------|
| <u>FISCAL IMPACT - Local Government</u> | FY 2012 (10 Mo.) | FY 2013 | FY 2014 |
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

Small businesses could be impacted as a result of this proposal.

FISCAL DESCRIPTION

No new claims shall be filed against the Second Injury Fund after July 1, 2011.

Only awards granted prior to July 1, 2011, awards or settlements in cases filed before July 1, 2001 and medical bills incurred and filed by employees of uninsured employers before July 1, 2011 shall be paid by the fund.

The Attorney General shall transmit the projected cost of all legal expenses to the director of the division of workers' compensation. The director shall then withhold sufficient funds to meet the expenses not to exceed 1/4 of the annual appropriation for that purpose.

Under the act, an annual actuarial study shall be made taking into consideration any existing balance carried forward in the fund from a previous year.

The act establishes priority for paying liability of the fund in the following order:

1. Expenses related to the legal defense of the fund.

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FISCAL DESCRIPTION (continued)

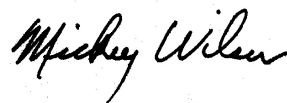
2. Permanent total disability awards in the order settled or finally adjudicated.
3. Permanent partial disability awards in the order settled or finally adjudicated.
4. Medical expenses incurred prior to July 1, 2011.

This act contains an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Insurance, Financial Institutions and Professional Registration
Department of Labor and Industrial Relations
Missouri Department of Transportation
Office of Administration
Office of the Attorney General
Office of the State Treasurer



Mickey Wilson, CPA
Director
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